

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
425	10:6224.	[None.]

The words “do not forfeit” are substituted for the words “lose no” for clarity.

DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Secretary of Defense, see section 1(14) of Ex. Ord. No. 11390, Jan. 22, 1968, 33 F.R. 841, set out as a note under section 301 of Title 3, The President.

[§ 426. Repealed. Pub. L. 90-377, § 10, July 5, 1968, 82 Stat. 288]

Section, Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 480, provided for payment to persons confined in a naval confinement facility under sentence of a court-martial of not more than \$3 a month for necessary expenses, such payments to be made from appropriations for pay of Navy or Marine Corps.

§ 427. Family separation allowance

(a) ALLOWANCE EQUAL TO BASIC ALLOWANCE FOR QUARTERS.—In addition to any allowance or per diem to which he otherwise may be entitled under this title, a member of a uniformed service with dependents who is on permanent duty outside of the United States, or in Alaska, is entitled to a monthly allowance equal to the basic allowance for quarters payable to a member without dependents in the same pay grade if—

(1) the movement of his dependents to his permanent station or a place near that station is not authorized at the expense of the United States under section 406 of this title and his dependents do not reside at or near that station; and

(2) quarters of the United States or a housing facility under the jurisdiction of a uniformed service are not available for assignment to him.

(b) ADDITIONAL SEPARATION ALLOWANCE.—(1) In addition to any allowance or per diem to which he otherwise may be entitled under this title, including subsection (a), a member of a uniformed service with dependents is entitled to a monthly allowance equal to \$75 if—

(A) the movement of his dependents to his permanent station or a place near that station is not authorized at the expense of the United States under section 406 of this title and his dependents do not reside at or near that station;

(B) he is on duty on board a ship away from the home port of the ship for a continuous period of more than 30 days; or

(C) he is on temporary duty away from his permanent station for a continuous period of more than 30 days and his dependents do not reside at or near his temporary duty station.

(2) A member who becomes entitled to an allowance under this subsection by virtue of duty prescribed in subparagraph (B) or (C) of paragraph (1) for a continuous period of more than 30 days is entitled to the allowance effective as of the earlier of—

(A) the first day of that period; or

(B) the first day the member ceased being entitled to a previous allowance under this subsection by reason of the end of duty prescribed in such subparagraphs, if the member ceased being entitled to the previous allowance within 30 days before the first day of that period.

(3) An allowance is payable under this subsection even though the member does not maintain for his primary dependents who would otherwise normally reside with him, a residence or household, subject to his management and control, which he is likely to share with them as a common household when his duty assignment permits.

(4) A member who elects to serve a tour of duty unaccompanied by his dependents at a permanent station to which the movement of his dependents is authorized at the expense of the United States under section 406 of this title is not entitled to an allowance under this subsection. The Secretary concerned may waive the preceding sentence in situations in which it would be inequitable to deny the allowance to the member because of unusual family or operational circumstances.

(Added Pub. L. 88-132, § 11(1), Oct. 2, 1963, 77 Stat. 217; amended Pub. L. 91-529, § 1, Dec. 3, 1970, 84 Stat. 1389; Pub. L. 91-533, § 1, Dec. 7, 1970, 84 Stat. 1392; Pub. L. 96-342, title VIII, § 809(a), Sept. 8, 1980, 94 Stat. 1097; Pub. L. 99-145, title VI, § 607(a), Nov. 8, 1985, 99 Stat. 639; Pub. L. 99-661, div. A, title VI, § 618(a), Nov. 14, 1986, 100 Stat. 3880; Pub. L. 102-25, title VII, § 702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 102-190, div. A, title VI, §§ 611(b), 625, Dec. 5, 1991, 105 Stat. 1376, 1379; Pub. L. 103-337, div. A, title VI, § 625(a), Oct. 5, 1994, 108 Stat. 2785.)

AMENDMENTS

1994—Subsec. (b)(2). Pub. L. 103-337, § 625(a)(3), added par. (2). Former par. (2) redesignated (3).

Pub. L. 103-337, § 625(a)(1), struck out at beginning “A member who becomes entitled to an allowance under this subsection by virtue of duty described in subparagraph (B) or (C) of paragraph (1) for a continuous period of more than 30 days is entitled to the allowance effective as of the first day of that period.”

Subsec. (b)(3), (4). Pub. L. 103-337, § 625(a)(2), redesignated pars. (2) and (3) as (3) and (4), respectively.

1991—Subsec. (a). Pub. L. 102-190, § 625(b)(1), inserted heading.

Subsec. (b). Pub. L. 102-190, § 625(b)(2), inserted heading.

Subsec. (b)(1). Pub. L. 102-190, § 625(a), substituted “\$75” for “\$60”.

Pub. L. 102-190, § 611(b), substituted “In” for “Except in time of war or of national emergency hereafter declared by Congress, and in”.

Pub. L. 102-25 struck out “of this section” after “subsection (a)”.

1986—Subsec. (b). Pub. L. 99-661, § 618(a), designated existing provisions as pars. (1) and (2), in par. (1) redesignated former pars. (1) to (3) as subpars. (A) to (C), respectively, and in par. (2) substituted “subparagraph (B) or (C) of paragraph (1)” for “clause (2) or (3)”, and added par. (3).

1985—Subsec. (b). Pub. L. 99-145 substituted “\$60” for “\$30”.

1980—Subsec. (b). Pub. L. 96-342 struck out “(other than a member in pay grade E-1, E-2, E-3, or E-4 (4 years’ or less service))” after “a member of a uniformed service with dependents”.

1970—Subsec. (b). Pub. L. 91-533 struck out “who is entitled to a basic allowance for quarters” after “(4 years’ or less service)”.

Pub. L. 91-529 inserted provisions authorizing payment of an allowance under this subsection even though the member does not maintain for his primary dependents who would otherwise normally reside with him, a residence or household, subject to his management or control, which he is likely to share with them as a common household when his duty assignment permits.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 625(b) of Pub. L. 103-337 provided that: “The amendments made by subsection (a) [amending this section] shall take effect as of June 20, 1994.”

EFFECTIVE DATE OF 1985 AMENDMENT

Section 607(b) of Pub. L. 99-145 provided that: “The amendment made by subsection (a) [amending this section] shall take effect on October 1, 1985, and shall apply only to family separation allowances payable for months beginning on or after that date.”

EFFECTIVE DATE OF 1980 AMENDMENT

Section 809(b) of Pub. L. 96-342 provided that: “The amendment made by subsection (a) [amending this section] shall take effect with respect to months after September 1980.”

EFFECTIVE DATE OF 1970 AMENDMENTS

Section 2 of Pub. L. 91-533 provided that: “The amendment made by this Act [amending this section] shall take effect on the first day of the first calendar month which occurs after the date of the enactment of this Act [Dec. 7, 1970].”

Section 2 of Pub. L. 91-529 provided that: “Section 1 of this Act [amending this section] is effective October 1, 1963.”

EFFECTIVE DATE

Section effective Oct. 1, 1963, see section 14 of Pub. L. 88-132, set out as an Effective Date of 1963 Amendment note under section 201 of this title.

SAVINGS PROVISION

Section 618(b) of Pub. L. 99-661 provided that: “Notwithstanding the amendments made by subsection (a) [amending this section], a member who on September 30, 1986, was assigned to a permanent station to which the movement of his dependents was authorized at the expense of the United States under section 406 of title 37, United States Code, and who elected to serve a tour of duty at that station unaccompanied by his dependents, shall, until he departs that station as a result of a change of permanent station, be entitled to receive the allowance authorized by section 427(b) of such title without regard to paragraph (3) [now (4)] of such section, as added by subsection (a).”

TEMPORARY INCREASE IN FAMILY SEPARATION ALLOWANCE; PERSIAN GULF CONFLICT

Section 302 of Pub. L. 102-25 provided that:

“(a) **INCREASED RATE.**—In lieu of the family separation allowance specified in section 427(b)(1) of title 37, United States Code, the family separation allowance payable under that section shall be \$75 for each month during the period described in subsection (b).

“(b) **PERIOD OF APPLICABILITY.**—Subsection (a) shall apply during the period beginning on January 15, 1991, and ending on the first day of the first month beginning on or after the date 180 days after the end of the Persian Gulf conflict.”

FAMILY SEPARATION ALLOWANCE FOR MEMBERS IN MISSING STATUS DURING THE VIETNAM CONFLICT

Pub. L. 91-534, Dec. 7, 1970, 84 Stat. 1392, provided: “That, under regulations to be prescribed by the Sec-

retary of Defense, a member of a uniformed service with dependents who is in a missing status (as defined in section 551(2) of title 37 United States Code) during the Vietnam conflict and is not entitled to an allowance under section 427(b) of title 37 may be paid a monthly allowance equal to \$30. For the purposes of this Act, the Vietnam conflict ends on the date designated by the President by Executive order as the date of the termination of combat activities in Vietnam.

“SEC. 2. This Act takes effect on the first day of the first month which begins after the date of enactment of this Act [Dec. 7, 1970].”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 403a of this title.

§ 428. Allowance for recruiting expenses

In addition to other pay or allowances authorized by law, and under uniform regulations prescribed by the Secretaries concerned, a member who is assigned to recruiting duties for his armed force may be reimbursed for actual and necessary expenses incurred in connection with those duties.

(Added Pub. L. 92-129, title II, §205(a), Sept. 28, 1971, 85 Stat. 359.)

EFFECTIVE DATE

Section effective Oct. 1, 1971, see section 209 of Pub. L. 92-129, set out as a note under section 302a of this title.

PAY CONTINUATION

Enactment of this section not to reduce the pay to which any member of the uniformed services was entitled on June 30, 1971, see section 210 of Pub. L. 92-129, set out as a note under section 203 of this title.

§ 429. Travel and transportation allowances: minor dependent schooling

Under regulations to be prescribed by the Secretary of Defense, a member of a uniformed service whose permanent station is outside the United States may be allowed transportation in kind for any minor dependent (or reimbursement therefor), or a monetary allowance in place of such transportation in kind, to a school operated by the Department of Defense under the Defense Dependents’ Education Act of 1978 (20 U.S.C. 921 et seq.) for dependents in an overseas area which is operated, and which such dependent attends, on a 5-day-a-week dormitory basis or on a 7-day-a-week dormitory basis. In the case of a dependent attending a school on a 5-day-a-week dormitory basis, the transportation in kind or allowance authorized by this section shall be for weekly trips to and from such school, and in the case of a dependent attending a school on a 7-day-a-week dormitory basis, such transportation in kind or allowances shall be for not less than three trips to and from such school during the school year.

(Added Pub. L. 95-561, title XIV, §1407(d)(1)(A), formerly §1407(c)(1)(A), Nov. 1, 1978, 92 Stat. 2367, renumbered §1407(d)(1)(A), Pub. L. 101-510, div. A, title V, §504(a)(1), Nov. 5, 1990, 104 Stat. 1559; amended Pub. L. 99-145, title XIII, §1303(b)(10), Nov. 8, 1985, 99 Stat. 741.)

REFERENCES IN TEXT

The Defense Dependents’ Education Act of 1978, referred to in text, is Pub. L. 95-561, title XIV, Nov. 1,